

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DEMARCUS NIXON,

Plaintiff,

v.

JAMES ALLEN, et al.,

Defendants.

No. 09-0686-DRH

ORDER

HERNDON, Chief Judge:

Now before the Court is Defendants James Allen, Walter Martin, Gary Graig, Jr., John Doe, Richard Roe, Police Officers of the Cahokia Police Department and the Village of Cahokia, Illinois' September 15, 2009 motion to dismiss Counts VI, VII, VIII, IX, and X of Plaintiff's complaint (Doc. 4). As of this date, Nixon has not responded to the motion.¹ Thus, the Court considers this failure to respond as an admission of the merits of the motion. Accordingly, the Court **GRANTS** the motion. The Court **DISMISSES with prejudice** Counts VI, VII, VIII, IX and X of Nixon's complaint.

IT IS SO ORDERED.

Signed this 22nd day of October, 2009.

/s/ David R. Herndon

**Chief Judge
United States District Court**

¹**Local Rule 7.1(c)** provides in part: "An adverse party shall have **thirty (30) days** after the service (*see* FED. R. CIV. P. 6) of the movant's motion in which to serve and file an answering brief. Failure to timely file an answering brief to a motion, may in the court's discretion, be considered an admission of the merits of the motion."